



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,423	12/03/2003	Roy Schoenberg	66729/P032US/10614704	5827
29053 7590 01/20/2010 FULBRIGHT & JAWORSKI L.L.P 2200 ROSS AVENUE SUITE 2800 DALLAS, TX 75201-2784			EXAMINER RANGREJ, SHEETAL	
			ART UNIT 3686	PAPER NUMBER
			MAIL DATE 01/20/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/726,423
Filing Date: December 03, 2003
Appellant(s): SCHOENBERG, ROY

Jody Bishop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/02/2009 appealing from the Office action mailed 08/14/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5 and 7-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Soong (US 6,941,271).

3. As per claim 1, Soong teaches a key organization method comprising:

-receiving, by a key organization system operable on a computer processor, a first access key that grants, to a medical service provider, a patient-defined level of access to a first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**); Examiner notes that Soong discloses the login IDS database including the names and login IDs of all persons entitled to access health records; furthermore the password could be created by the individual **OR** the patient, causing no burden.

-receiving, by said key organization system, a second access key that grants, to a medical service provider, a patient-defined level of access to a second set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**);

-storing the first and second access keys in a centralized key repository that is communicatively accessible to said key organization system; **(Soong: col. 11, 6-50)** and

-associating, by said key organization system, said first and second access keys with said medical service provider **(Soong: col. 11, 6-50)**. Examiner notes that a medical provider could have multiple login IDs that provide different access to medical records of a patient; the login IDs are compared in the database that provides authorization, therefore associating first and second access keys with said medical service provider.

4. As per claim 2, the method of claim 1 is as described. Soong further teaches wherein the first access key is generated by a first patient **(Soong: col. 6, 14 to col. 7, 20)**, and the first set of medical records concern the first patient **(Soong: col. 7, 20-52)**.

5. As per claim 3, the method of claim 1 is as described. Soong further teaches wherein the second access key is generated by a second patient **(Soong: col. 6, 14 to col. 7, 20)**, and the second set of medical records concern the second patient **(Soong: col. 7, 20-52)**. Changing the amount of keys generated and amounts of medical records concerning the patients does not change the invention as a whole, therefore the limitations are taught as mentioned.

6. As per claim 4, the method of claim 1 is as described. Soong further teaches further comprising controlling, by said key organization system, said medical service provider's access to the first set of medical records by allowing said medical service provider to select, from a list of patients for whom access keys are associated with said medical service provider, a corresponding patient to whom the first set of medical records pertains **(Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50)**.

7. As per claim 5, the method of claim 4 is as described. Soong further teaches further comprising controlling, by said key organization system, said medical service provider's access to the second set of medical records by allowing said medical service provider to select, from a list of patients for whom access keys are associated with said medical service provider, a corresponding patient to whom the first set of medical records pertains (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**). Changing the amount of keys generated and amounts of medical records concerning the patients does not change the invention as a whole, therefore the limitations are taught as mentioned.

8. As per claim 7, the method of claim 1 is as described. Soong further teaches further comprising storing the first and second medical records on a centralized medical record repository (**Soong: figure 1**).

9. As per claim 8, the method of claim 7 is as described. Soong further teaches wherein the centralized medical record repository and centralized key repository reside on and are executed by a remote server connected to a distributed computing network (**Soong: figure 1**).

10. As per claim 9, the method of claim 8 is as described. Soong further teaches wherein:

-the remote server is a web server (**Soong: col. 3, 60 to col. 4, 1**); and

-the distributed computing network is the Internet (**Soong: col. 3, 60 to col. 4, 1**).

11. As per claim 10, the method of claim 1 is as described. Soong further teaches wherein the first set of medical records is a multi-portion medical record and the first access key provides access to one or more portions of the first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

12. As per claim 11, the method of claim 1 is as described. Soong further teaches wherein the second set of medical records is a multi-portion medical record and the second access key provides access to one or more portions of the second set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

13. As per claim 12, Soong teaches a key distribution method comprising:

- receiving, by a key organization system from a first patient using a client computer, a first access key that grants, to a medical service provider, a patient-defined level of access to a first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**);

- receiving, by a key organization system from a second patient using a second client computer, a second access key that grants, to said medical service provider, a patient-defined level of access to a second set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**); and

- associating, by said key organization system, said first and second access keys with said medical service provider;

- storing, by said key organization system, the first and second access keys and said association in a centralized key repository (**Soong: col. 11, 6-50**); and

- receiving, by said key organization system, a request from said medical service provider to access said first or second set of medical records and, responsive to said request, controlling access to said requested set of medical records using said first or second access key, wherein input of said first or second access key from said medical service provider is not required by said key organization system (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

14. As per claim 13, the method of claim 12 is as described. Soong further teaches further comprising controlling, by said key organization system, said medical service provider's access to the first set of medical records by receiving input from said medical service provider for selecting, from a list of patients for whom access keys are associated with said medical service provider, a corresponding patient to whom the first set of medical records pertains **(Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50).**

15. As per claim 14, the method of claim 12 is as described. Soong further teaches further comprising controlling, by said key organization system, said medical service provider's access to the second set of medical records by receiving input from said medical service provider for selecting, from a list of patients for whom access keys are associated with said medical service provider, a corresponding patient to whom the first set of medical records pertains **(Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50).**

16. As per claim 15, the method of claim 12 is as described. Soong further teaches further comprising storing the first and second medical records on a centralized medical record repository **(Soong: col. 11, 6-50).**

17. As per claim 16, the method of claim 15 is as described. Soong further teaches wherein the centralized medical record repository and centralized key repository reside on and are accessible through said key organization system connected to a distributed computing network **(Soong: figure 1).**

18. As per claim 17, the method of claim 12 is as described. Soong further teaches wherein the first set of medical records is a multi-portion medical record and the first access key provides

access to one or more portions of the first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

19. As per claim 18, the method of claim 12 is as described. Soong further teaches wherein the second set of medical records is a multi-portion medical record and the second access key provides access to one or more portions of the second set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

20. As per claim 19, Soong teaches a key organization method comprising:

- maintaining, on a remote server, a centralized key repository and a centralized medical record repository (**Soong: figure 1; col. 6, 14 to col. 7, 20**);

- storing a plurality of patient medical records on the centralized medical record repository, wherein said plurality of patient medical records comprise at least one of a first set of medical records containing information pertaining a first patient and a second set of medical records containing medical information pertaining a second patient (**Soong: figure 1; col. 6, 14 to col. 7, 20**);

- storing, in said centralized key repository, a plurality of access keys that each grant patient-defined access rights to a corresponding patient's set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**); and

- responsive to a request from said medical service provider to access one of said sets of medical records, retrieving, by a key organization system, from said centralized key repository a determined one of said access keys that is associated with said medical service provider and which corresponds to said requested set of medical records, and controlling, by said key

organization access by said medical service provider to said requested set of medical records using the retrieved access key (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

21. As per claim 20, the method of claim 19 is as described. Soong further teaches further comprising:

-receiving, from said first patient, a first access key, of said plurality of access keys, that grants to said medical service provider a patient-defined level of access to the first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**); and

-receiving, from said second patient, a second access key, of said plurality of access keys, that grants to said medical service provider a patient-defined level of access to the second set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

22. As per claim 21, the method of claim 20 is as described. Soong further teaches further comprising storing, by said key organization system, the first and second access keys in the centralized key repository (**Soong: figure 1**).

23. As per claim 22, the method of claim 19 is as described. Soong further teaches further comprising accessing, by said key organization system, the first set of medical records using the first access key (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

24. As per claim 23, the method of claim 19 is as described. Soong further teaches further comprising accessing, by said key organization system, the second set of medical records using the second access key (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

25. As per claim 24, the method of claim 19 is as described. Soong further teaches wherein the centralized medical record repository and centralized key repository reside on a remote

server connected to a distributed computing network and are communicatively coupled to said key organization system (**Soong: figure 1**).

26. As per claim 25, the method of claim 24 is as described. Soong further teaches wherein:

- the remote server is a web server (**Soong: figure 1**); and

- the distributed computing network is the Internet (**Soong: figure 1**).

27. As per claim 26, the method of claim 19 is as described. Soong further teaches wherein the first set of medical records is a multi-portion medical record and the first access key provides access to one or more portions of the first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

28. As per claim 27, the method of claim 19 is as described. Soong further teaches wherein the second set of medical records is a multi-portion medical record and the second access key provides access to one or more portions of the second set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

29. As per claim 28, Soong teaches a key organization system comprising:

- a server system including a computer processor and associated memory, the server system having a centralized key repository and a centralized medical record repository (**Soong: figure 1**);

- wherein the server system is configured to:

 - store a first set of medical records and a second set of medical records on the centralized medical record repository (**Soong: col. 6, 14 to col. 7, 20**);

 - receive a first access key associated with a medical service provider that grants to said

medical service provider a patient-defined level of access to the first set of medical records (**Soong: col. 6, 14 to col. 7, 20**);

-receive a second access key associated with a medical service provider that grants to said medical service provider a patient-defined level of access to the second set of medical records (**Soong: col. 6, 14 to col. 7, 20**); and

-store the first access key and the second access key on the centralized key repository (**Soong: figure 1; col. 6, 14 to col. 7, 20**); and

-wherein the key organization system is configured to, responsive to receipt of a request from said medical service provider to access one of said first and second set of medical records, retrieve a determined one of first and second access keys from the centralized key repository and use the retrieved access key to control access by said medical service provider to said requested set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

30. As per claim 29, the system of claim 28 is as described. Soong further teaches further comprising a client system including a computer processor and associated memory, the client system being configured to:

-communicate said request from said medical service provider to said key organization system via a communication network (**Soong: col. 3, 56 to col. 4, 30**).

31. As per claim 30, the system of claim 29 is as described. Soong further teaches wherein the server system and the client system are coupled via a distributed computing network (**Soong: figure 1**).

32. As per claim 31, the system of claim 30 is as described. Soong further teaches wherein the distributed computing network is the Internet (**Soong: figure 1**).

33. As per claim 32, the system of claim 28 is as described. Soong further teaches wherein the first set of medical records is a multi-portion medical record and the first access key provides access to one or more portions of the first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

34. As per claim 33, the system of claim 28 is as described. Soong further teaches wherein the second set of medical records is a multi-portion medical record and the second access key provides access to one or more portions of the second set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

35. As per claim **34**, it is an article of manufacture claim which repeats the same limitations of claim **28**, the corresponding method claim, as a collection of executable instructions stored on machine readable media as opposed to a series of process steps. Since the teachings of **Soong** disclose the underlying process steps that constitute the method of claim **28**, it is respectfully submitted that they likewise disclose the executable instructions that perform the steps as well. As such, the limitations of claim **34**, are rejected for the same reasons given above for claim **28**.

36. As per claim **35**, it is an article of manufacture claim which repeats the same limitations of claim **12**, the corresponding method claim, as a collection of executable instructions stored on machine readable media as opposed to a series of process steps. Since the teachings of **Soong** disclose the underlying process steps that constitute the method of claim **1**, it is respectfully

submitted that they likewise disclose the executable instructions that perform the steps as well.

As such, the limitations of claim **35**, are rejected for the same reasons given above for claim **12**.

37. As per claim **36**, it is an article of manufacture claim which repeats the same limitations of claim **19**, the corresponding method claim, as a collection of executable instructions stored on machine readable media as opposed to a series of process steps. Since the teachings of **Soong** disclose the underlying process steps that constitute the method of claim **1**, it is respectfully submitted that they likewise disclose the executable instructions that perform the steps as well.

As such, the limitations of claim **36**, are rejected for the same reasons given above for claim **19**.

38. As per claim 37, the method of claim 1 as described. Soong further teaches further comprising: granting said medical service provider secure access to said key organization system, wherein said access allows said medical service provider to select a patient from a group of patients associated with said medical service provider (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**). Examiner notes that the provider inputs a patient's name, therefore, allowing a medical service provider to select a patient form a group of patients.

39. As per claim 38, the method of claim 37 as described. Soong further teaches wherein said secure access is granted after said medical service provider passes a security, test issued by said key organization system (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

40. As per claim 39, the method of claim 37 as described. Soong further teaches further comprising:

-receiving, by said key organization system, said selection, wherein said selection is a request to access said first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**);

-retrieving from said centralized key repository, by said key organization system in response to said selection, said first access key (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**); and
-using, by said key organization system, said first access key to control said medical services provider's access to said first set of medical records (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

41. As per claim 40, the method of claim 4 as described. Soong further teaches wherein accessing the first set of medical records does not require said medical service provider to pass a second security test (**Soong: col. 6, 14 to col. 7, 20; col. 11, 6-50**).

(10) Response to Argument

A. Rejection of claims under 35 U.S.C. §102 over Soong

Ind. Claims 1, 12, 19, 28, 34-36, and Dep. claims 2-3, 7-11, 20-23, 24-27, 29-33

Receiving and storing access keys

Appellant argues that Soong does not teach a key organization system that receives and stores access keys. Examiner disagrees. Claim 1 limitation recites receiving access keys that grant a patient-defined level of access to a set of medical records. Examiner states that Soong teaches a system that has a log in ID web browser for the provider to log in and that log in ID is compared to the log in ID database to provide access; therefore disclosing the limitations of claim 1.

Associating access keys

Appellant argues that Soong fails to teach “associating, by said key organization system, said first and second access keys with said medical service provider.” Examiner disagrees. The database includes the names and log in IDs of all persons entitled to access health records, therefore, having the password is not enough to have someone access the medical records, as appellant argued. Soong further teaches a system that compares the person accessing the database and the type of access they have in the medical record (col. 11, 6-50).

Dependent Claims 4-5, 13-14, 37 and 39-40

Appellant argues that Soong does not teach that its access keys are associated with a medical service provider and thus it does not teach that a key organization system that allows a

medical service provider to select, from a list of patients for whom access keys are associated with the medical service provider, a corresponding patient to whom the first set of medical records pertains. Examiner states that Soong teaches a system to manually enter a patient's name along with access keys. It would be obvious to provide a list of patients in a drop down menu.

Dependent Claim 38

Appellant argues that Soong fails to teach “wherein said secure access is granted after said medical service provider passes a security test issues by said key organization system.” Examiner states that Soong teaches a person trying to access the medical record to input log in ID, password, patient’s name, and many other information; then comparing the multiple information against the database; therefore providing a security test to grant access.

Independent Claims 12 and dependent claims 15-18

Provider accesses medical records with inputting the access keys

Appellant argues that Soong fails to teach “receiving, by said key organization system, a request from said medical service provider to access said first or second set of medical records and, responsive to said request, controlling access to said requested set of medical records using said first or second access key, wherein input of said first or second access key from said medical service provider is not required by said key organization system.” Examiner states that Soong teaches a comparison module that compares the identification of the person trying to access against the database (col. 11, 6-50).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Sheetal R. Rangrej/
Examiner, Art Unit 3686

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686

Conferees:

Jerry O'Connor /GJOC/
Supervisory Patent Examiner
Group Art Unit 3686

Vincent Millin /vm/

Appeals Conference Specialist